

FILED

SEP 19 2008

CLERK, U.S. DISTRICT COURT
By _____
Deputy**ORIGINAL**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN OVERBY

VS.

ALLIED INTERSTATE, INC.

3 CIVIL ACTION NO 649 - D

JURY TRIAL DEMANDED

COMPLAINT

JURISDICTION

1. The jurisdiction of this Court attains pursuant to 15 U.S.C. §1692 et seq, the Fair Debt Collection Practices Act (“FDCPA”) for which jurisdiction is proper in this Court. 15 U.S.C. §1692k(d) and state law claims supplemental thereto. Venue lies in the Northern District of Texas since Plaintiff's claims arose from acts of the Defendant perpetrated therein.

PARTIES

2. Plaintiff, Brian Overby, is a natural person whose permanent address is in Dallas, Texas and is a “consumer” as defined by 15 U.S.C. §1692a(3) of the FDCPA. Plaintiff is a resident and citizen of the State of Texas.

3. Defendant, Allied Interstate, Inc., is a corporation organized under the laws of the state of Minnesota, not registered to conduct business in Texas, and may be served with process by serving its registered agent for service of process: Edward T. Burke, 11222 Richmond, Suite 160, Houston, Texas 77082.

FACTUAL ALLEGATIONS

5. Plaintiff is an individual consumer as defined by 15 U.S.C. §1692a(3).
6. Defendant Allied Interstate, Inc. is a debt collector as defined by the FDCPA and Texas Debt Collection Practices Act.
7. On or about June 6, 2008, Allied Interstate, Inc., sent a demand letter to Plaintiff attempting to collect a debt alleged to be due to the original creditor, Sprint. Plaintiff does not believe

the debt is a valid debt.

8. On or about June 19, 2008, Plaintiff sent a letter to Allied Interstate requesting verification of the debt, and further disputing the debt.

9. No response to Plaintiff's letter has been received. Instead, on or about August 6, Allied Interstate sent a second collection letter to Plaintiff.

CAUSES OF ACTION

COUNT I

11. Plaintiff re-alleges and incorporates paragraphs 1 through 10 above as if fully set out herein.

12. Allied Interstate, Inc. is a debt collector as defined by the Fair Debt Collection Practices Act, 15 U.S.C. §1692a(6).

13. Defendant has violated 15 U.S.C. §1692g by failing to respond to Plaintiff's request for validation of the debt.

14. Defendant has violated 15 U.S.C. §1692e(2)(A) by falsely representing the character, amount, or legal status of a debt.

COUNT II

15. Plaintiff re-alleges and incorporates paragraphs 1 through 14 above as if fully set out herein.

16. In violation of Tex. Fin. Code §392.301(a)(8), the Defendant threatened to take (and/or did take) an action prohibited by law.

17. In violation of Tex. Fin. Code §392.202, the Defendant did not investigate Plaintiff's dispute and did not respond to Plaintiff's request and continued to report the debt, not marked disputed, on Plaintiff's credit report.

COUNT III

18. Plaintiff re-alleges and incorporates paragraphs 1 through 17 above.

19. Pursuant to Tex. Fin.Code §392.404, the Defendant's violations of the Texas Debt Collection Practices Act also constitute a deceptive trade practice Subchapter E, Chapter 17, Business and Commerce Code ("DTPA"), and is actionable under that chapter.

20. The foregoing acts and omissions were undertaken on behalf of the Defendant by its respective officers, agents, or employees acting at all times relevant hereto within the scope of that relationship.

21. The foregoing acts and omissions of the Defendant were undertaken wilfully, intentionally, knowingly, and/or in gross disregard of the rights of the Plaintiff.

22. The foregoing acts and omissions of the Defendant were undertaken indiscriminately and persistently, as part of its regular and routine collection efforts, and without regard to or consideration of the identity of rights of the Plaintiff.

23. By reason of the allegations in this petition, the Texas Debt Collection Practices Act and Fair Debt Collection Practices Act, Plaintiff is entitled to recover attorney's fees in a sum that is reasonable in relation to the amount of work expended for which Plaintiff sues herein. The attorney whose name is subscribed to this pleading has been employed to assist Plaintiff in the prosecution of this action.

Prayer for Relief

WHEREFORE, the Plaintiff prays that this Court:

1. Declare that Defendant's actions violate the FDCPA and TDCPA.
2. Enter judgment in favor of Plaintiffs and against Defendant for statutory damages, actual damages, costs, and reasonable attorney fees as provided by 15 U.S.C. §1692k(a) and/or Tex. Fin.Code Ann. §392.403.
3. Grant such further relief as deemed just.

TRIAL BY JURY IS DEMANDED.

Respectfully submitted,



Sharon K. Campbell
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3100 Monticello Ave., Suite 500
Dallas, Texas 75206
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Fax: 214/265-7626
Sharon@SharonKCampbell.com

CIVIL COVER SHEET 3 - 08CV1649-D

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

Brian Overby **ORIGINAL**

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

*Sharon Campbell
3100 Monticello Ave Suite 500
Dallas, TX 75205/2142513260/214265-7626*

DEFENDANTS

Allied Interstate, Inc.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

RECEIVED

SEP 19 2008

CLERK U.S. DISTRICT COURT DISTRICT OF TEXAS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/>

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage		<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 388 Product Liability		<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equ. Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input checked="" type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or <input type="checkbox"/> 5 Reopened	Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Violation of ~~Federal~~ federal Debt Collection Practices Act by failing to verify

VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMANDS CHECK YES only if demanded in complaint:
COMPLAINT: Yes No

VIII. RELATED CASE(S) (See instructions):

IF ANY JUDGE DOCKET NUMBER

DATE 9-18-08 SIGNATURE OF ATTORNEY OF RECORD *Sharon Campbell*

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE